In the High Court of Judicature at Madras

Dated: 29.11.2006

Coram:

The Honourable Mr.Justice P.SATHASIVAM

and

The Honourable Mr.Justice S.TAMILVANAN

Writ Petition No.38836 of 2006

M.Balakrishnan ..Petitioner

..vs..

1. Chennai Metropolitan Development
   Authority, rep.by its
   Member-Secretary,
   No.1, Gandhi Irwin Road,
   Egmore, Chennai-600 008.

2. Corporation of Chennai,
   rep.by its Commissioner,
   Ripon Buildings, Park Town,
   Chennai-600 003.

3. M/s.Suprabath Constructions,
   rep.by its Managing Partner,
   Flat C/2 in II Floor,
   Door No.17, Vinayagam Street,
   West Mambalam,
   Chennai-600 033.

4. S.Palani

5. S.Ravi ..Respondents

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Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, for the reasons stated therein.

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For Petitioner : Mr.D.S.Rajasekaran

For Respondents : Mr.J.Ravindran for R1
Mr.E.R.K.Moorthy for R2
Mr.N.Chandra Raj for R3

ORDER

(Order of the Court was made by P.SATHASIVAM,J.,)

The petitioner has filed the above writ petition to issue a Writ of mandamus, directing the 1st and 2nd respondents, namely, Chennai Metropolitan Development Authority and Corporation of Chennai respectively, to initiate action against the unauthorised, illegal constructions put up by respondents 3 to 5 at Block A & B, 2nd Floor, Old No.17, New No.35, Theagaraya Gramani Street, T.Nagar, Chennai-17, in accordance with law, based on his representations dated 13.07.2006, 25.09.2006 and 28.09.2006.

2. Heard the learned counsel for the petitioner as well as the respondents.

3. With reference to the allegations made by the petitioner, the 3rd respondent has filed a separate counter affidavit and respondents 4 and 5 have also filed a common counter affidavit, highlighting their defence. We have verified various averments in the affidavit as well as the stand taken by respondents 3 to 5 from the counter affidavits and verified the earlier order of this Court dated 25.08.2006 made in W.P.No.27926 of 2006 as well as the order dated 15.09.2006 in I.A.No.12920 of 2006 in O.S.No.6357 of 2006 passed by the learned XVI Assistant Judge, City Civil Court, vacating the injunction granted earlier.

4. Considering the issue raised and the stand taken by the petitioner as well as the contesting respondents, who are none else than the occupants of the very same building, we are of the view that ends of justice would be met by directing the 1st respondent to enquire into the grievance expressed by the petitioner as well as respondents 3 to 5 with reference to the sanctioned plan and the subsequent representation made by respondents 3 to 5. It is also brought to our notice that respondents 3 to 5 have submitted their application for regularisation and remitted full regularisation fee to the 1st respondent on 25.04.2005. In view of decision rendered by the First Bench in Consumer Action Group ..vs.. State of Tamil Nadu (2006 (4) CTC 483), it is for the 1st respondent to consider the grievance expressed by both parties. We make it clear that if the request of respondents 3 to 5 is for regularisation of unauthorised construction, as per the directions of the First Bench, whether the matter has to be referred to the Monitoring committee or not, it is for the 1st respondent to consider and take appropriate decision.

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5. With the above observations / directions, we dispose of the writ petition. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. The Member Secretary,
   Chennai Metropolitan Development
   Authority,
   No.1, Gandhi Irwin Road,
   Egmore, Chennai-600 008.

2. The Commissioner,
   Corporation of Chennai,
   Ripon Buildings, Park Town,
   Chennai-600 003.

1 cc to Mr.N. Chandra Raj, Advocate, Sr. 58368
1 cc to Mr.J. Ravindran, Advocate, Sr. 58485
1 cc to Mr.D.S. Rajasekaran, Advocate, Sr. 58466
1 cc to Mr. E.R.K. Moorthy, Advoate, Sr. 58453

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